

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ORDER ADOPTING REPORT AND RECOMMENDATION

This civil rights action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Gary M. Purcell consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Purcell entered a Report and Recommendation on November 9, 2011, to which Petitioner has timely objected. The Court therefore considers the matter de novo.

The facts and law are accurately set out in the Magistrate Judge's Report and Recommendation and there is no purpose to be served in repeating them yet again. In his objection, Petitioner merely restates the conclusions and legal argument originally asserted, and raises no issue not fully and accurately addressed and rejected by the Magistrate Judge.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, Defendants' Motion to Dismiss (Dkt. No. 42) is granted and Plaintiff's claims alleging a violation of the Double Jeopardy

Clause, all of Plaintiff's claims against Defendant Oklahoma County Jail, and Plaintiff's claims seeking to file criminal charges against unidentified jail officials are dismissed with prejudice. Defendant Whetsel's Motion to Dismiss (Dkt. No. 42) is construed as a motion for summary judgment. So construed, the motion is granted and judgment shall issue in favor of Defendant Whetsel and against the Plaintiff as to his claim of deliberate indifference to his safety needs. Defendant Whetsel's Motion to Dismiss Plaintiff's claims of deliberate indifference to his serious medical needs and Plaintiff's claims against Defendant Whetsel in his official capacity are dismissed without prejudice pursuant to Fed. R. Civ. P. 12(b)(6) and 28 U.S.C. § 1915A(b) for failure to state a claim upon which relief may be granted. Plaintiff's "Motion for Movement" (Dkt. No. 52) is denied. A judgment will enter accordingly.

IT IS SO ORDERED this 30th day of November, 2011.



ROBIN J. CAUTHRON
United States District Judge